



PUBLIC NOTICE

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COMMENT SOUGHT ON PETITIONS FOR DECLARATORY RULING REGARDING INTERCARRIER COMPENSATION FOR WIRELESS TRAFFIC

Pleading Cycle Established

CC Docket No. 01-97

Comments Due: October 18, 2002

Reply Comments Due: November 1, 2002

The Commission hereby seeks comment on two petitions that request rulings regarding the intercarrier compensation regime applicable to certain types of wireless traffic.

T-Mobile Petition. On September 6, 2002, T-Mobile USA, Inc., Western Wireless Corporation, Nextel Communications, Inc., and Nextel Partners, Inc. (CMRS Petitioners) filed a petition for declaratory ruling in the above-referenced docket requesting that the Commission "reaffirm that wireless termination tariffs are not a proper mechanism for establishing reciprocal compensation arrangements" between local exchange carriers (LECs) and commercial mobile radio service (CMRS) providers.¹ According to CMRS Petitioners, a CMRS carrier typically will interconnect indirectly with a rural ILEC (*i.e.*, traffic will be exchanged through an intermediate carrier.) CMRS Petitioners state that indirectly interconnecting carriers often exchange traffic pursuant to a bill-and-keep arrangement, rather than an interconnection agreement, at least for mobile-to-land traffic. CMRS Petitioners state that some rural LECs recently have filed state tariffs as a mechanism to collect reciprocal compensation for the termination of intra-MTA traffic originated by CMRS carriers. The CMRS Petitioners assert that compensation for such traffic should be paid only when the LEC and CMRS carrier have entered into an interconnection agreement under section 251 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. In the absence of such an agreement, they state that traffic should be exchanged on a bill-and-keep basis. The CMRS Petitioners request that the Commission direct ILECs to withdraw any wireless termination tariffs in existence today or, alternatively, to declare such tariffs unlawful, void and of no effect. The CMRS Petitioners

¹ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Petition for Declaratory Ruling of T-Mobile USA, Inc., *et al.* (filed Sept. 6, 2002)

state that the Commission has authority to issue the requested ruling pursuant to sections 332(c)(1) and 201 of the Communications Act.

US LEC Petition. On September 18, 2002, US LEC Corp. filed a petition for declaratory ruling asking the Commission to "issue a ruling reaffirming that LECs are entitled to recover access charges from IXCs for the provision of access service on interexchange calls originating from, or terminating on, the networks of CMRS providers."* US LEC states that industry practice is for IXCs to pay access charges to LECs for this traffic, but that recently one IXC has declined to pay these charges. US LEC states that a requirement that IXCs pay access charges to LECs for traffic to or from a CMRS carrier is fully supported by Commission precedent. US LEC asserts that grant of the petition is necessary to eliminate controversy and avoid future challenges regarding this issue.

Pursuant to sections 1.415 and 1.419 of the Commission's rules,³ interested parties may file comments regarding the T-Mobile Petition or the US LEC Petition in CC Docket No. 01-92 on or before October 18, 2002, and reply comments on or before November 1, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁴

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the filing to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic copy by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: "get form <your email address>." A sample form and directions will be sent in reply. Commenters also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can **be** sent by hand or messenger delivery, by commercial overnight courier, *or* by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this

² Petition of US LEC Corp. for Declaratory Ruling Regarding LEC Access Charges for CMRS Traffic (filed Sept. 18, 2002). *The petition will be placed in the record of CC Docker No. 01-92.*

³ 47 C.F.R. §§ 1.415, 1.419.

⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, para. 8 (1998).

location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals 11, 445 12th Street S.W., CY-B402, Washington, D.C. 20554 (telephone 202-863-2893; facsimile 202-863-2898) or via e-mail at qualexintl@aol.com. In addition, one copy of each submission must be filed with the Chief, Pricing Policy Division, Wireline Competition Bureau, and Chief, Policy Division, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, D.C. 20554. Documents filed in this proceeding will be available for public inspection during regular business hours in the Commission's Reference Information Center, 445 12th Street, S.W., Washington, D.C. 20554, and will be placed on the Commission's Internet site.

This proceeding will be governed by "permit-but-disclose" *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.⁵ Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.⁶ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. In addition, interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene H. Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies each: Pricing Policy Division, Wireline Competition Bureau. Attn: Victoria Schlesinger, and Policy Division, Wireless Telecommunications Bureau, Attn: Gregory Vadas, 445 12th Street, S.W., Washington, D.C. 20554. Parties shall also serve with one copy: Qualex International, Portals 11, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

For further information, contact Steve Morris or Victoria Schlesinger, Pricing Policy Division, Wireline Competition Bureau, (202) 418-1530, or Gregory Vadas, Policy Division, Wireless Telecommunications Bureau, (202) 418-1798.

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⁵ 47 C.F.R. § 1.1206.

⁶ See 47 C.F.R. § 1.1206(b)(2).